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ban interfered with the observance of a religion. The court stated: "No law * * * has been found which undertakes to subject the Navajo Tribe to the laws of the United States with respect to their internal affairs, such as police powers and ordinances, for the purpose of regulating the conduct of members of the tribe on the reservation." Additionally, in the case of *Toledo v. Pueblo Jemez*, the court held that "deprivation of religious liberties by tribal organizations could not be redressed by action under the Civil Rights Act."

The constitutional amendments which forbid the United States and the States to deprive any person of life, liberty, or property without due process of law do not apply to a tribe's conduct of criminal trials. In the case of *Talton v. Mayes*, the Supreme Court held that the fifth amendment applies only to the acts of the Federal Government; that the governmental powers of an Indian nation, although recognized by the Federal Government, were not created by it; and that the judicial authority of the Cherokee Nation was, therefore, not subject to the limitations imposed by the Bill of Rights.

Similarly, in *Barta v. Oglala Sioux Tribe*, the Sixth Circuit Court of Appeals held that neither the 5th nor the 14th amendments had any application to action, legislative in character, of Indian tribes imposing a tax on the use of Indian trust land. The court stated: "The 14th amendment places limitations on the legislative action by the State, but the Indian tribes are not States and the Constitution section has no application to the legislative enactments of the tribe."

In the report of the Commission on Rights, Liberties and Responsibilities of the American Indian, established by the Fund for the Republic, it was stated that: "No government of whatever kind should have the authority to infringe upon fundamental civil liberties; government itself must ever be subject to law. Freedom of religion, utterance, and assembly, the right to be protected in one's life, liberty, and property against arbitrary government action and to be immune from double jeopardy and bills of attainder, and the guarantee of a fair trial are not privileges; they are minimum conditions which all Americans should enjoy."

It is, of course, preferable that the tribes themselves assure basic rights to each member, but when this is not the case it is incumbent upon Congress to take action. This realization was, of course, a guiding factor behind the subcommittee's study.

The subcommittee has been particularly concerned with the reserved Indian as subjected to the authority of the Secretary of the Interior. Congress has granted to the Secretary guardianship of Indian lands, which has in effect grown to encompass jurisdiction over all Indian matters. The guardianship limitations on what an Indian could do with respect to land have expanded to include all community problems such as the administration of justice, education, and general welfare; and there is a serious question as to whether or not the Secretary acts constitutionally when he approves tribal ordinances which violate a provision of the Bill of Rights.

In the administration of law and order, the powers exercised by the tribes are derived from their recognized powers of self-government. Unless the Secretary of Interior has established Courts of Indian Offenses pursuant to the Code of Federal Regulations, tribal courts as established by law and order codes approved by the Secretary are operative. There is one exception, however, among the Pueblo Indians where the traditional courts exist. These are not courts in the usual sense of the word but rather courts governed by community custom as interpreted by the tribal council and religious leaders.

Investigation by the subcommittee has shown that there is usually no substantial difference between the other two court systems. Many tribes have modeled their tribal courts after the Courts of Indian Offenses. Although the Indian court system appears analogous to a typical municipal court system, especially with respect to the scope of jurisdiction, there are several differences in the Indian courts which appear to seriously curtail the effective administration of justice on reservations. For example, there is an absence of a reliable and effective appeal system within the Indian courts themselves. More important, perhaps, from the standpoint of cases involving rights guaranteed by the Federal Constitution, is the omission of an appeal system from the Indian courts to the Federal courts. This inadequacy has been called to the subcommittee's attention by tribal leaders, individual Indians, and State, and Federal officials.

Recently various State universities in cooperation with the area offices of the Bureau of Indian Affairs began conducting Indian tribal courts' conferences. These conferences bring together law professors, tribal judges, and other Federal, State, and tribal officials. In March of 1962, the University of Arizona College of Law conducted a Southwest Indian Tribal Courts Conference. During the discussion of tribal court procedure the following case was cited: A young Indian was arrested for having in his possession beer and whiskey and was held in jail for 2 weeks without trial. The trial finally was held at 8:30 p.m. and lasted until about 1 o'clock in the morning. Although the code called for a fine of \$16.50, the court's decision was much more severe. The following quote made by a Bureau of Indian Affairs special officer is taken directly from the conference report: "When he left that courtroom he was divorced, alimony was arranged for, child support and visitation rights were arranged, his car was confiscated, his wages garnished, and he was fined \$16.50. This young man did not know any of this was going to happen. He was in court on a criminal charge—one charge—and look what happened to him."

I am certain that your initial reaction was the same as mine—that this must be an exaggerated case but one indeed shocking to the conscience.

In contrast to the unauthorized and harsh sentence in the case just discussed is the punishment authorized for serious crimes coming under the jurisdiction of the Courts of Indian Offenses. The maximum sentence for assault in a Court of Indian Offenses is 5 days; and for felonies such as theft, fraud, forgery, bribery, and perjury the maximum is 6 months. There is a great discrepancy between these sentences and those authorized for the same crimes in the Federal and State courts. Sentences in tribal courts closely resemble those in the Courts of Indian Offenses.

Although jury trial is authorized in most Indian courts, the subcommittee found that either out of ignorance, or habit, or fear of alienating the judges, trial by jury is very seldom requested. Even when a jury is impaneled, it differs from the procedures we know. In the Courts of Indian Offenses, for example, challenges for cause as well as peremptory challenges are limited to three. The number of jurors is six in the Courts of Indian Offenses; they are paid 50 cents a day (the pay authorized for witnesses under subpoena); and verdicts are rendered by majority vote.

When the subcommittee visited Gallup, N. Mex., in 1961, we found that 23 of 24 groups which were interviewed actually precluded the accused from having any professional legal representation. Even many of the tribes which allowed representation specify that it must be by a tribal member.

At a time when the States and all the branches of the Federal Government are increasingly concerned with enforcing the right to counsel in criminal cases at all levels, the Indian court systems present us with an intolerable situation.

In order to insure that the Indian citizen is guaranteed the same protections as other Americans, I expect in the near future to introduce two major bills. The first will concern a model penal code for Indian courts and, the second will concern appellate jurisdiction within the tribal court to the Federal courts. I feel that this legislation should go the full way in assuring to the Indian the same procedural safeguards enjoyed by all other Americans.

Another area of concentration by the subcommittee concerns the approval by the Secretary of the Interior of contracts between tribes and tribal attorneys. The tribal government is required by law to obtain approval of the Secretary of the Interior for all contracts with attorneys before they can become legally binding. Attorneys, of course, are reluctant to render service until that approval has been obtained; and the subcommittee has found that delays by the Department in granting approval have been so protracted that, in effect, tribes, in some instances, are being effectively denied counsel and due process of law.

At the subcommittee's hearings in Sacaton, Ariz., several Yuma Indians testified that their tribe executed a 15-month contract with an attorney, but that, by the time the contract had been approved by the Secretary of the Interior, 13 months had expired and the attorney by then was not available because of other legal work he had accepted during the interim. Mrs. Helen Peterson, then director of the National Congress of American Indians, cited other cases in which approval took from 7 to 13 months.

These and many other examples have convinced the subcommittee that a procedure originally designed to protect the tribes is now working to their great detriment. Therefore, legislation is being drafted which would assure early consideration of attorney contracts.

This great Nation of ours was founded and exists on the principle of a Government of laws, which respects and protects the rights of men no matter how few in number or insignificant in power.

The sovereignty that the Federal Government has allowed the Indian tribes to retain must be looked upon as similar to that which exists in local communities throughout the country. While it is true that the form of government on many of the reservations is much different from that which exists in other communities, the basic functions are the same, and the rights which must be protected from infringement by all governments should be the same. Failure to legislate in this area is a grave omission which must be rectified in order to provide the Indian with the same safeguards as other Americans.

NEED FOR A FREEDOM ACADEMY

Mr. MUNDT. Mr. President, as the impression that a detente is occurring in Soviet-American relations gains more acceptance among people, the necessity that we establish and maintain the correct attitude toward the nonmilitary side of our relationships with the Communist powers becomes more compelling.

Communism has not terminated its efforts at world domination. No one in authority should claim it has. Even while we discuss the relaxation of world tension, our own Army is fighting Com-

munists in Vietnam and maintains guard against them elsewhere.

The effort at Communist subversion in Latin America has reached high crescendo, and it continues to be intensified in Asia and in Africa.

The point of my comments is simply this: If the main theater of our struggle for freedom is to shift from the military, where we are well equipped to handle the struggle, to the nonmilitary, there must be renewed efforts to establish within the U.S. Government a facility which is capable of focusing our capabilities on the nonmilitary side of the struggle.

That in large part means the establishment of an institution which can, on the scale which is necessary, train officials of the American Government, representatives of the private sector of our economy whose work is overseas, and the foreign nationals upon whom falls the primary responsibility for developing real freedom within their homelands.

Prof. Sidney Hook, head of the philosophy department at the New York University, recently contributed an article to the IBM Corp. publication, *Think*. His article commands widespread attention.

Mr. President, I ask unanimous consent that Professor Hook's article, "Why the United States Needs a Freedom Academy," from the September 1963 issue of *Think*, be printed in the *RECORD*.

There being no objection, the article was ordered to be printed in the *RECORD*, as follows:

WHY THE UNITED STATES NEEDS A FREEDOM ACADEMY

(By Sidney Hook)

There is now before Congress a bill proposing the establishment of a Freedom Academy in the United States. Such an institution, designed to counter Communist propaganda, would be open to private citizens, Government officials, and students of foreign nations. The author, head of New York University's philosophy department, explains how it would work and why we need it.

Anyone who makes a candid assessment of the prospects of freedom in the world today will find them dispiriting. By "the prospects of freedom" I do not mean the future of the American business system. Although Messrs. Khrushchev and Mao charge the United States with attempting to impose this system on the recipients of American aid, Tito, Gomulka, and Sukarno, who have benefited immensely from American largesse, know how false that charge is.

By the prospects of freedom in this context I mean respect for liberal institutions which enable those who live and work in their communities to express their needs and exercise their uncoerced choice. Only a liberal center can be relied upon to introduce the necessary social reforms without both bankrupting a country economically and at the same time destroying whatever embryonic institutions of democracy exist. But a liberal center cannot arise without liberal institutions.

One of the sad facts of the contemporary political scene is the disproportion between the massive economic and educational aid which the United States has given the relatively underdeveloped countries in Asia, Africa, and Latin America, and the prospects of freedom in these countries. It would require volumes to present an adequate account of why this is so. The responsibility of certain native vested interests, whose social philosophy is limited to the preservation of the status quo at all costs, is often heavy.

Although they do not explicitly announce, "Après nous, le déluge," this attitude is a consequence of refusing to recognize that there is no status quo in a world of vast technological and political change, and that either the legitimate aspirations of the people will be met by a dynamic expanding economy, or else Communist demagoguery and terror will triumph.

But the tragic facts are that even in countries where attempts are being made to achieve progress toward a liberal center, the obstacles and setbacks to the cause of freedom are many. Among the prime reasons for this is the skillful political warfare being waged by strategically placed Communist groups in almost every sector of their national life. The ultimate strategy of these groups is the conquest of political power. But their day-by-day tactics is to demoralize the efforts made by liberal groups and governments to achieve stability and progress. They set out to frustrate, sometimes by infiltration and sometimes by violence, movements of reform. They make special efforts to capture the allegiance of the idealistic elements in a culture, particularly the youth and professional groups. They seek to narrow the choice before the country between what they call, on the one hand, a Fascist solution identified with the existing government or any other group friendly to the West, and what they call, on the other hand, the truly nationalist or revolutionary solution. The latter is the thinly disguised program of initial demagoguery and ultimate total political terror, wielded in the interests of the masses by the Communist Party.

Long before the Communists become a menace in the military way, they conduct full-scale political cold war against communities which are woefully ill prepared to defend themselves or even to recognize accurately the nature of the struggle being waged against them. Any knowledgeable American who has traveled extensively abroad, will find striking evidence of the activity and success of these sustained cold war campaigns against the principles of freedom and the solutions based upon them. One will find the evidence in student movements as well as peasant movements, in trade unions and in cooperatives, in peace organizations and cultural societies, in schools, theaters, the press, and sometimes even in churches.

Three things account for their success.

First, having learned from experience that they are rejected when they straightforwardly present the real party program, the propaganda of Communists today is based on the tactical appropriation and exploitation of the rhetoric and slogans of democracy, and the skillful use for ultimate party purposes of the language and ideals of social reform. Communists not only win a hearing but a considerable following by posing as partisans of peace, or as knights of national independence, defenders of civil rights, or fighters for progress.

Second, Communists have mastered the techniques of organizational penetration and capturing of central. In hardly any of the organizations in which they have won control do the Communists constitute a majority. On the contrary, they are comparatively few in number. Nonetheless, they are ensconced in strategic posts of command, in a position to mobilize mass sentiment, able to organize demonstrations, organize riots, and manipulate public opinion in accordance with instructions received from their masters abroad. They are adept in the use of an entire repertoire of stratagems in capturing meetings, planting key personnel in executive posts and directing committees, and seeding schools, newspapers, and other media of communication with trusted agents.

Third, those liberals and Democrats who are opposed to them have no corresponding

know-how in combating these techniques. They lack experience, and by the time they acquire it, it is too late. For all their sincerity and dedication, they do not know how to expose incisively and persuasively the Communist degradation of the word, how to prevent parliamentary rules from being used by the Communist caucus to forestall key votes pending against them, and, finally, how to use in the interests of decency countertechniques to Communist infiltration which have been developed over the years.

Is this picture of Communist activity and success in mobilizing public opinion, and channeling it for their own political purposes, overdrawn?

We have the eyewitness testimony of one formerly doubting Thomas who visited several Asian countries and was appalled at what he found in Japan, Indonesia and elsewhere. Attorney General Robert Kennedy, upon his return from Asia, said:

"In every country, well organized and highly disciplined Communist cadres concentrate their activities on universities, student bodies, labor organizations and intellectual groups. Against these there is no one to question their position, their facts; no organization, no cadre, no disciplined and calculated effort to present the other side. And so it is that a small, able and well-trained unit can take over a meeting or an organization or even a government."

What can we do to counteract this formidable arm of the Communist movement whose activities are paying such rich political dividends—with more of the same in sight?

"If we do not meet the problem head-on," says Attorney General Kennedy, "if we are not ourselves imaginative, tough, dedicated . . . the struggle will be lost by us."

One thing should be clear at once, if Attorney General Kennedy is right. We cannot combat the activity of Communists in foreign countries by American nationals, whether they are American Foreign Service officers, exchange professors, visiting dignitaries, or businessmen. Even with the best will in the world, this would be construed by non-Communists in those countries as interference. I have found in most foreign countries I have visited that when an American official says that twice two is four, the statement is greeted with suspicion and distrust. After all, the Soviet Communists do not play a conspicuous public role in these countries. It is exclusively the native elements, indigenous to the culture, idiom and language, who are the banner-bearers for the Communist idea.

Native Communist propaganda and subversion must be resisted by native non-Communists, liberal elements. What the United States should do is to establish an educational training center—a Freedom Academy—in which those who wish to preserve the freedom of their country from a Communist takeover can master the techniques of ideological and organizational defense and offense. Without this kind of help to the countries of Asia, Africa, and Latin America, all our other forms of aid may prove ineffectual.

Under Secretary of State George W. Ball, testifying before the Senate Foreign Relations Committee, properly stressed the fact that "the Communist powers have devised a whole new system of aggression—the subversion of men's minds by subtle means of propaganda, employing the most sophisticated methods of communication; the corruption of governments; the employment of new techniques of infiltration and espionage; the exploitation of weakness; systematized terrorism and urgency; utilization of economic warfare."

FREEDOM FROM WITHIN

It is difficult to understand how diplomatic activity, even if supplemented by private

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American agencies, could combat these tactics with any hope of success. Freedom cannot be brought to a country from without. It must be won and defended by those who live there. At most, the United States can prevent invasion and overt aggression by Communist powers. But over the long run, only those who are willing to fight for freedom in their own country can win it or keep it. But they must know how to fight for it. This the Freedom Academy should undertake to teach them—openly and proudly and before the eyes of the world. The Communists are compelled to conceal the character of their schools of subversion and the curriculum within them. We need not conceal what we teach.

Where will the students of the Freedom Academy come from?

There will be some American citizens among them, but mainly they will be individuals nominated and recommended by non-Communist student groups, free trade unions, cooperatives, peasant unions, liberal political associations and a multiplicity of other organizations whose non-Communist bona fides have been established. They will receive fellowships adequate to cover transportation and costs of residence at the Freedom Academy.

Who will teach the students?

Fortunately, there exist in the United States men and women who have had intensive experiences in combating Communists in schools and universities, trade unions and cooperatives, peace organizations and social clubs. Many have studied Communist techniques of subversion, and have developed effective measures of defense and offense against them. They know how to prevent, for example, a cell of 10 Communists in a university from manipulating democratic rules, and sending all 10 as delegates to the central student body as presumably representatives of 10 different organizations, thus taking over the central student office, including the student newspaper. They know how to expose, say, extreme demands of a Communist faction in a peasant organization, demands presented not because they are viable, but to discredit the democratic leadership. Members of the staff can also be drawn from various countries in which Communist strategies have been repelled by resolute and intelligent leadership.

The chief objection which has been raised against the Freedom Academy is that its alumni, who return to their own countries, will be marked men, subject to the derogatory epithets of "American agent," or something equally unsavory. Undoubtedly, the Communists will seek to discredit those who have studied at the Freedom Academy and will watch their behavior closely.

This, however, will be far from fatal, providing only that the partisans of freedom have been properly trained. First of all, it is not to be expected that most of the students will be public figures coming from the limelight of political life and returning to it. They will be drawn primarily from those social, cultural and educational areas in which Communists are always active in recruiting support for their political spokesman of the moment. As a rule, those who come to the Freedom Academy will be members of groups and associations of a broad democratic range. Normally, nominations will be made by the student, farm, cooperative, cultural, philanthropic, trade union, or business organization with which the individual is affiliated. To some extent, therefore, the organization which nominates the candidate for the academy will have a vested interest in his activity. He will have a natural audience on his return, an audience with whom he can remain in some communication while at the academy. The Communist charge, "American agent," will have to be implausibly directed against the organization to which he belongs.

Upon his return to his own country, the graduate of the Freedom Academy may at first resume his original employment. If there is a continuing need in the organization which nominated him, for the services of someone thoroughly sophisticated in his understanding of communism, he will be a logical person for the post. Presumably, he will have ideas and plans about how to further the prospects of freedom which he will lay before the membership.

Nor is this all. The alumnus of the Freedom Academy is a potentially valuable asset to a newspaper or magazine of general interest. He knows how to spot political crises in the making—if the Communists are behind them. He can become a commentator for radio and television stations. The field of education is wide open to him, and here he will have some of his toughest battles. Indeed, any agency or medium of communication which recognizes its responsibility to keep public opinion informed and alert might use his services. Different situations will suggest to the returning alumni of the Freedom Academy different opportunities for action. If they have been properly trained, they will create their own opportunities.

The foreign alumni of the Freedom Academy will be encouraged to feel free to criticize the United States if, in the interests of our common ideal of freedom, they conscientiously believe it is necessary. Such criticism should not be resented by us, even if it seems a bit exaggerated. It will be proof that the alumni are not wearing the collar of any government, and when they speak up for the common ideal of freedom, their voice will have greater weight and authority.

Occasions for criticism of some American policies will not need to be manufactured. After all, American themselves at home engage in such criticism vigorously. There is still sufficient disagreement among freemen and among the free nations of the world to make such critical discussions, now and then, not only inescapable but healthy. One sure sign of the Moscow-trained Communist who will probably be shouting, "American agent," is his eloquent refusal to criticize any of the policies of the Kremlin (or, if he has been trained in Peiping, of Red China). This is a situation made to order for a well-trained alumnus of the Freedom Academy.¹ The Communist curriculum of studies, of stratagems and deceptions, cannot be made public without becoming self-defeating. But the more publicity about the methods of countering Communist stratagem, the greater is educational effect.

The time has come to expand our horizons in the struggle for the survival of freedom. It is not enough for us to know the truth about communism. Other countries must know it, too, and learn how to use the truth effectively. The general staff of the Communist movement no longer believes that it will win the world by military conquest, for in the mushroom cloud of the hydrogen bomb, it sees intimations of its own mortality. That is why it has redoubled its efforts everywhere to take over the countries of the world, piecemeal, from within, with a combination of stealth and daring.

The historical evidence shows that it is making gains on every continent—including North America, if Cuba is considered part of our continent. It is aided almost as much by those who fear it without understanding it and who fight it with wrong weapons,

¹ Founding of the Academy has been proposed in the Freedom Commission Act, now before Congress, with bipartisan legislative blessing, in Senate bill 414. This is not to be confused with the National Academy of Foreign Affairs, an organization proposed in another bill, S. 865. The latter merely broadens present educational programs of the Foreign Service Institute.

as by those who, tender-minded and sentimental, ally themselves in a common or popular front with Communists, brashly confident, in their total ignorance of Communist ideology and history, that they can control the Communists. There is no program or curriculum of studies which adequately explores the relevant problems posed by the advance of communism, or which seeks to develop the appropriate measures to meet them. This is the task of the Freedom Academy which Senate bill 414 seeks to establish.

In the nature of the case, to perform this function well, the Freedom Academy must go beyond it. It must continue research and experiment to discover new means of meeting the new techniques of attack which the Communists are sure to launch as their old methods and stratagems are exposed.

The Freedom Academy must also explore the entire gamut of positive democratic proposals to meet the problems the Communists exploit. We live in an age in which the global political revolution, the universal technological revolution, and the revolution of rising expectations, with its psychological paradoxes, have all converged. Even if there were no Communist movement, the free world would have many grave problems to settle. But it is the presence of the Communist movement which seeks to convert these problems into mortal dangers and threats to democratic survival. That is why the Communists must be repelled on every front of the cold war as the democratic community develops viable solutions to its problems.

A VITAL INVESTMENT

The United States is making an investment in order to safeguard not only the freedom of other countries but also its own freedom. It is making an investment also to safeguard its vast philanthropic investments. In some countries, we provide the means to build schools, and the Communists staff them; in other countries, we send food to sustain life, and, sometimes the Communists get the credit; in still other countries, we help domestic programs to abolish illiteracy, and then the Communists move in with simple, very cheap, political-propaganda reading material on a massive scale. Situations of this kind cannot be corrected from the outside. Only the foreign nationals who believe in freedom can effectively combat the foreign nationals who do not.

For these and many other reasons, I am convinced that the organization of a Freedom Academy is an experiment worth trying. At present, no matter how innocent a person's studies in the United States, he is sure to be denounced as an agent of American imperialism by Communists on his return home. This has been true of physicians, agriculturalists, even men of the cloth. The victims are politically untrained and sometimes become demoralized. Communist denunciations will not cease when graduates of the Freedom Academy return home. But those attacked will be well trained, capable not only of making effective retort but of taking the offensive. This may result, in some countries, in changing the political complexion of things.

AMERICAN UNIVERSITY AT BEIRUT

Mr. ROBERTSON. Mr. President, I have long been a supporter of the work of the American University of Beirut and I am glad that its accomplishments are being more widely recognized with each passing year.

The Christian Science Monitor of today, Friday, October 11, carries a fine article about the university on its editorial page and makes the point that